

SPEECH

OF

MR. JAMES GRAHAM,

OF NORTH CAROLINA,

ON THE BILL MAKING AN APPROPRIATION TO

PREVENT AND SUPPRESS INDIAN HOSTILITIES.

DELIVERED

IN THE HOUSE OF REPRESENTATIVES,

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1838.

S P E E C H.

Mr. CHAIRMAN: The bill now under discussion proposes to appropriate money to *prevent* and *suppress Indian hostilities*. This appropriation is asked, *not* to declare war against the Cherokee Indians, but to prevent and suppress a protracted and bloody war by them upon the white settlements in North Carolina, Tennessee, Alabama, and Georgia. This object meets my decided approbation. The volunteers and militia now called by the Government into public service for this pacific purpose must be supported and paid. A small portion of the Cherokee country laps on the southwestern part of North Carolina, and lies within the limits of the congressional district which I have the honor to represent on this floor. I have no hostile feelings to the Cherokee Indians; my constituents and my State have no unkind feelings to them. Since the treaty of Hopewell, in the year 1785, down to this day, the State of North Carolina has uniformly acted with justice and generosity towards those Indians; and my constituents have respected their rights, and dwelt in amicable relations on their frontier borders. The treaties of 1817 and 1819, granting reservations of land to certain resident Indians, were productive of much confusion and some litigation in North Carolina; still the Indians and their council were always well satisfied with the decisions of our courts; for justice is ably and impartially administered in North Carolina to all classes and to all colors. About one hundred Cherokee Indians, seven or eight years since, voluntarily left their tribe, and removed themselves to a white settlement in my district; and I am informed they are temperate, orderly, and industrious, and dwell in peace among their white neigh-

bors. I am further informed, by late letters, that the Indians are now coming from *all parts* of their nation, and taking refuge in my district. I mention these facts to repudiate and repel all the unfounded charges of oppression and cruelty that have been hatched in sickly sympathy, and conjured up in this debate, so far as they relate to me and mine, and to demonstrate that my district and State have at all times acted with justice, liberality, humanity, and mercy, towards the Cherokee Indians. Some of the Cherokees are more civilized and cultivated than any other Indians with whom I am acquainted; still the great body of their tribe are cruel, savage Indians; and God forbid that I should ever surrender my country, and forsake the white people for the red race.

In the year 1835 the Cherokee chiefs sold by treaty all their lands east of the Mississippi river to the United States, for the gross sum of five millions six hundred thousand dollars, (\$5,600,000,) and agreed, on or before the 23d day of May, 1838, to remove west of the Mississippi river, to an extensive territory allotted to them by different compacts, and embracing, by computation, thirteen millions eight hundred thousand acres of land. It is now alleged here in debate that this treaty is fraudulent and void, and that the appropriation now demanded to execute it, and preserve the peace, ought to be withheld or suspended until we pronounce that treaty fair or foul, good or bad.

Mr. Chairman, I hold, and now contend, that the constitution of the United States has conferred upon the President and Senate, *alone and exclusively*, the treaty-making power. This branch of Congress has nothing to do in making or unmaking treaties. This House has the rightful and constitutional power over the purse and money of the people; and, in pursuance of that very power, so vested, this House, two years since, made an appropriation of five millions six hundred thousand dollars to execute and fulfil this treaty. Yes, sir, the journal of 1836, which is now before my eyes, proves that one hundred and twenty-five members voted for the appropriation, while only forty-three could be found to vote against it. This treaty, therefore, was made and ratified by the proper parties to whom the

constitution committed this high trust, and was solemnly approved, in appropriating the ways and means for its execution, by a large majority of the representatives of the people. It has now become the supreme law of the land, and both State and individual rights are vested under it. The contract is no longer executory, but *in part actually executed*, and hundreds of Indians have received thousands of dollars, and removed to the far Western wilderness, under its bountiful provisions. I could not if I would, and would not if I could, overthrow and demolish it.

The very question involved in this treaty, and at present under investigation, was solemnly decided by both branches of Congress, about two years ago, in a protracted and perplexing controversy with France. France then delayed and declined to perform her treaty stipulations and obligations with the United States. What then did this House say to "the law's delay and the insolence of office?" The answer was unanimous: we will stand upon our constitutional rights; we will not look back, beyond or behind the treaty. The French case is analogous and parallel to the Indian case; it decides it. We cannot *now* look back, behind or beyond the Cherokee treaty, solemnly made and ratified by the President and Senate. We cannot rightfully get over it, under it, or around it, because the constitution has erected an impassable barrier between us and the treaty-making power.

Mr. Chairman, although this treaty is a constitutional shield in defence of the ground I assume, yet I will proceed, and show, I think to the satisfaction of all unprejudiced minds, that the Cherokee treaty of 1835 was fairly made, upon a full consideration, and ought to be fairly and truly executed; that a more beneficial and liberal treaty was never made with any tribe; and that no real and sincere friend of the Indians should wish to see it abrogated, nullified, or violated. Now, sir, to the law and to the testimony. The most intelligent and influential Cherokee chiefs are quite rich, (the owners of valuable lands and slaves,) and they have become so by the frequent receipts of annuities and appropriations from the General Government, while the great mass of the tribe are poor, very poor, miserable

creatures. The chiefs and head-men are generally white Indians—not red Indians. By white Indians I mean those who have more of the white man's blood in their veins than they have of the Indian stock. John Ross, the principal chief, is seven parts white, and only one degree Indian. Mr. Chairman, are you acquainted with the Indian character and customs? If you are, you know they repose implicit confidence in their head-men. The law of their nation is the will of their head-men. All the treaties of the United States with the Indian tribes have been made with their chiefs. The Cherokee Indians have, for a number of years, had serious difficulties with the State of Georgia; and, to add to their misfortunes, they also have had bitter internal divisions among themselves. The chiefs and tribe have split into two formidable parties. Amidst these difficulties and dissensions, John Ross and his party, delegates, in the year 1835, came to Washington, and offered to sell all the Cherokee nation east of the Mississippi river, for the gross and lumped sum of twenty millions of dollars. This proposition was promptly rejected by the President, (General Jackson,) as being too extravagant and enormous, and very far beyond the real value of the land. Ross and his associates then addressed a note in writing to the President, reminding him "*that he has often remarked, that he would grant the Indians as liberal terms as the Senate, or the friends of the Indians, would be willing to allow;*" and he asked that his proposition might be submitted by the President to the Senate, for their sense and opinion thereon. In this *fishing diplomatic note*, Ross wishes the sense of the Senate to be ascertained and pronounced, but does *not* promise to stand by their judgment. The President and his Secretary at War perceived *the bait on the hook*, and declined all idle children's play with this adroit and skillful negotiator. Let it be borne in mind, that at that time the majority of the Senate were politically opposed to the President. Ross and his party then made another proposition of sale to the President, and reference of value to the Senate, which I will read from their own words

FEBRUARY 28, 1835.

SIR: Having submitted a proposition for a final adjustment of our difficulties with the Government of the United States, and understanding that the President deems it too extravagant, *we must beg that the subject be referred to the Senate, for its sense on the question*, the President having often told us that he was disposed to treat us with liberal justice, and that he would go as far as the Senate would allow him in regard to money matters.

We therefore trust he will adopt this course. Being extremely desirous that this unhappy controversy might be speedily adjusted, and deeply sensible of our dependent condition, and confiding in the liberal justice of the United States Government, we are prepared, so far as we are concerned, *to abide the award of the sense of the American Senate upon our proposition, and to recommend the same for the final determination of our nation.*

We have the honor to be, sir, very respectfully, your obedient, humble servants,

JOHN ROSS,
R. TAYLOR,
DAN'L McCOY,
SAM'L GUNTER,
WM. RODGERS.

To the Hon. LEWIS CASS,
Secretary at War.

The Secretary at War (Gov. Cass) answered the letter I have just read, as follows:

DEPARTMENT OF WAR, *March 6, 1835.*

GENTLEMEN: In your letter of the 28th ultimo, you stated your readiness to accept for yourselves, and to recommend to the Cherokee people to accept, such sum for their claims east of the Mississippi river as the Senate of the United States might deem just. The Senate have, by a resolution, stated, as their opinion, that "*a sum not exceeding five millions of dollars should be paid to the Cherokee Indians for all their lands and possessions east of the Mississippi river.*"

The President wishes now, as he has always done heretofore, to treat with you in a spirit of candor as well as liberality. He has, therefore, directed me to communicate to you, at once, the resolution of the Senate, and to state his willingness to enter into a negotiation with you for the cession of all your claims east of the Mississippi, upon condition

that the whole amount of the consideration to be given shall not exceed the above-mentioned sum. This you were before informed should be done, and the pledge will be redeemed with fidelity.

I am *now ready* to receive your propositions concerning the various stipulations to be embodied in a treaty for the protection of private rights, and for such arrangements as may be necessary for the removal and re-establishment of your people.

Very, &c. LEWIS CASS.

MESSRS. JOHN ROSS,
R. TAYLOR,
DAN'L MCCOY,
SAM'L GUNTER,
WM. RODGERS.

Now, Mr. Chairman, here is a proposition, on behalf of Ross and his party, so far as they were concerned, to abide the award of the American Senate in relation to the value of the Cherokee country; the President directly acceded to that proposition, and communicated the matter in dispute to the Senate, and *referred the value of the land* entirely to that enlightened body. They took the subject under consideration, and decided and declared, by resolution, as their opinion, that a sum not exceeding five millions of dollars should be paid to the Cherokee Indians for all their lands and possessions east of the Mississippi river. Ross and his party further agreed and undertook to recommend to their nation to make a treaty for such sum as the Senate's award should fix and designate. Here is a fair contract, (dictated by Ross himself,) founded on *a high and heaping price*. Now, how has this promise been performed? How has this contract been executed? The President, through his Secretary, immediately notified Ross and his party that he was ready to negotiate the treaty for the aggregate sum of five millions of dollars, to be in full for the entire cession; but the application of the money would be such as the chiefs desire, a just regard being had to individual rights. John Ross, learning that five millions, and not twenty millions of dollars, had been fixed and awarded, as the consideration of bargain and sale, suggested many excuses, and *pretended* that the expenses and costs of removal, subsistence, and so forth, were to be added, *over and*

above the five millions ; and that he must return directly to the Cherokee nation, to arrange and adjust all the details and specifications, and take the sense of the Indians, before he proceeded to consummate the treaty. He left this city, and went home ; not to recommend, but to oppose, the treaty, on the basis and value pronounced by the Senate ; and he has opposed it from that time to this day, and used and exerted all his power and influence to defeat it. He procured a great meeting in council among the Indians, at Red Clay, and prevailed upon them (both the Ridge party and the Ross party) to co-operate and unite in rejecting the treaty he had solemnly promised to recommend for their adoption. He then had eighteen commissioners nominated and appointed, (nine from each party,) invested "*with full power from the Cherokee people, in general council assembled, to make such treaty as may appear to them best calculated to insure the present peace and future prosperity of that country.*" Here was absolute power conferred and vested in both parties to sell the Cherokee lands and execute a treaty. The President sent commissioners into the Cherokee country to conclude and consummate the treaty, according to the Senate's award. The rival chiefs soon terminated their amicable relations and harmonious action, and were again torn asunder, and stood in hostile opposition to each other. You will hold in remembrance, when Ross was in Washington, he pretended he could not negotiate the terms and details of the treaty *there*, because he wanted all specifications settled and arranged in the nation, for the satisfaction of the Indians ; and when the commissioners went into the Indian nation, and announced the object of their mission, then he endeavored to evade and give the go-by to the whole subject, by informing the commissioners he could not negotiate and make a treaty *there*, in the Indian nation ; but he would go back to Washington and consummate the whole business. Thus, you perceive, Indian diplomacy bears the likeness and similitude of Reynard, who, when closely pursued, in his doublings and windings, strives hard to take the back track, and return to the place where the chase began. The Ridge party, who were sincerely desirous to sell and remove, saw and knew this double dealing and talking with a forked tongue must ultimately sacrifice the

great body of the Cherokee people, and they refused to accompany Ross and his party to Washington; and they resolved to make a treaty on the best terms they could with the United States commissioners, then in the nation for that purpose. In this unhappy internal division and distraction of councils and chiefs, John Ross and his delegation came off to Washington, while Ridge and his party (who were rendered by the nation coequal with the Ross party in all powers to sell) remained in their country, and concluded the treaty of New Echota, (or, in English, the City of Refuge,) on the 29th day of December, 1835, on the basis of five millions of dollars, as awarded by the Senate, and six hundred thousand dollars more, *to be given and paid for removal and subsistence* west of the Mississippi river. The six hundred thousand dollar provision was conditional, and dependent on the subsequent approbation of the Senate. This treaty was signed generally by the Ridge party, and by William Rodgers, one of the Ross delegates, who agreed to abide the award of the Senate; and he faithfully redeemed that pledge. The treaty of New Echota was sent by the President to the Senate, who knew the whole history of this matter, from beginning to end, and they approved and ratified it.

Now, Mr. Chairman, I have shown you that Ridge and his party were equally authorized by the tribe with Ross to make a treaty; and they did actually execute one, for six hundred thousand dollars *more* than the Senate (as referees) said the country was worth; and still Ross refused to sign it. Here you perceive this treaty was indeed signed by one party, (the Ridge party;) and it was solemnly *agreed*, in writing, to be signed by the other party, (the Ross party.) When the Senate of the United States advised and consented to the ratification of this treaty, they acted upon the well-known and long-established principles of a court of equity, so far as John Ross and his party were concerned. "Those who ask equity must first do equity." "The court will consider that done which ought to have been done." That Ross and his delegates, having expressly given their assent by previous submission and award, were bound in conscience to abide by and execute the treaty. A chancellor, upon these facts, adduced and attested in a court of equity,

would have directed and decreed a specific performance of the original agreement, and compelled Ross to execute the contract according to the Senate's award.

The advocates and apologists of John Ross charge fraud in the execution of this treaty. Speculation, declamation, and denunciation, have each exhausted their vocabulary of hard words and harsh names, to stamp and brand this whole transaction with iniquity and infamy; but hard words are not strong arguments. Now, gentlemen, where is the bad faith? Where is the foul fraud? There is none *on the part of the United States*. Can John Ross, the complainant, who seems to excite and enlist the tender sympathies of so many honorable members of Congress, say as much, and say it truly? No, sir; *no*. His word is not equal to his bond: his written promise is not equivalent to a treaty; and yet he imputes fraud to others: to the President and Senate of the United States. For doing what? For acceding to his own proposition. He is estopped by his own act to make this allegation. He is condemned out of his own mouth, and that condemnation is written and recorded by his own hand and pen. *He is like an eagle, shot by an arrow feathered from his own wing.* This wily chieftain must not be permitted to play the game of fast and loose at his pleasure. Heads, he wins; tails, we lose. Twenty millions, he's fast; five millions, and he aint there.

Mr. Chairman, this treaty is fair and valid, and was made according to the long-established usage of treating with Indian chiefs. The amount of money (five millions six hundred thousand dollars) paid for the lands, possessions, and removal, is a very high and heaping price; and I do believe it is more than the country is actually worth. It was liberally bestowed and awarded by the Senate, supposing at the time it would make abundant satisfaction for the land and all injuries committed. This treaty not only rests upon a large and very liberal pecuniary consideration, but is founded on a most humane and benevolent policy and philanthropy. The history and experience of every State in this Union abundantly prove that the white man and the red man *cannot dwell together* in peace, tranquillity, and equality. The Cherokee Indians are now surrounded by a dense

white population. Their hunting ground is abandoned. Their game is gone. They cannot convert the tomahawk into the ploughshare, nor the scalping-knife into the pruning-hook. Their home is in the wilderness; their delight is in the chase. Civilization and refinement paralyzes and destroys all their faculties and energies. Some wild animals never can be rendered tame. You cannot change the order of nature. You might as well expect the red man to change the color of his skin as his habits and pursuits. The Indian on the white frontier is a degraded, desponding, and forlorn creature. He learns the vices, not the virtues, of civilized society. He is cheated by speculators, swindlers, and Shylocks. He is often left only with his blanket, his bow, and his arrow. The buffalo, the bear, the deer, and other noble game, which constitute the chief food of nature's noblemen in their aboriginal condition, have all fled from the sound of the woodman's axe, toward the Rocky Mountains. Why, then, not advise and assist the children of the wilderness to remove to a new wild country, suited to their wants and conditions of life? And there let them remain, in the full enjoyment and contentment of their own hunting grounds and game, unmolested by the curiosity of Yankees, and undisturbed by the cupidity of speculators. Yes, sir, I would build up on the Western frontier a Chinese wall, by Congressional enactments, between the white and the red man, that the Indians might forever live there in security and peace.

The policy of the United States in removing and locating all the Indians west of the Mississippi river is a wise, and humane, and *life-preserving policy*. It had its origin with the lofty statesmen and enlightened philanthropists of by-gone days, and was intended to save and rescue the Indian tribes from extermination and annihilation. In the thick forests and flowery prairies of the Western wilds their hearts will leap for joy in the manly exercises of the hunter's life. There they will roam over nature's gardens and pure streams, contented and happy in the pursuit of their own chosen pleasures, unannoyed by the frauds of the frontier, and uncorrupted by the vices of the pioneer. It has been said in this debate, by way of censuring the Government for its policy, If the Indians are removed and congre-

gated on the Western frontier, they will unite and wage war upon the United States, and devastate and depopulate the States of Arkansas and Missouri. Is this view of the case founded in fancy or in fact? Is it not a fancy sketch, which exists only in a diseased state of the imagination? How can fifteen or sixteen different tribes, scattered in the wilderness from Texas to Canada, and speaking different languages, having different habits, customs, and interests, unite and co-operate in one common war against the white people? It is certainly not within the range of probabilities; and it requires some effort and stretch of imagination to bring it in the neighborhood of possibilities. We might as well expect all the nations of Europe to unite and declare war upon us. The Indians will have wars with each other; and they may, and occasionally will, have wars with us; but, in the nature of nations and individuals, there can be no concerted and united action of the various tribes to make hostile movements upon the white people.

Mr. Chairman, the message of the President of the United States, and the accompanying communication of his Secretary at War, *just received by this House, and proposing in effect to give the Cherokee Indians two years longer for removal*, meets my reprobation and decided condemnation. *It is indiscreet, unwise, and ill-timed*; it is a giving way in the very hour and trial of danger. What, sir, after the President and his Secretary have ordered and sent General Scott and six or seven thousand troops into the Cherokee country, to preserve the peace and remove the Indians; after the militia are all gone, and most enormous expenses incurred, and every thing ready for removal; *then* (on the very day before this treaty is to be executed) comes this unfortunate and most unwelcome message, proposing and pledging himself to use and exert his influence to give two years longer for removal. If we have any Cherokee war, it will be justly attributable to this ill-timed and timid message of the President, and to the indiscreet speeches of members on this floor, in their blind devotion to John Ross and his party, while they are forgetful of the rights and true interests of the great body of the Cherokee Indians.

Mr. Chairman, the plain and patriotic people whom I have

the honor to represent, entertain no fears from the Cherokees, but they do dread and deprecate the necessity of killing the Indians. They hope most sincerely that the wise counsels of humane legislators, under the dispensation of a merciful Providence, will avert this melancholy catastrophe and painful duty. But, sir, if the Indians once shed the white man's blood, and commence hostilities, then the die is cast, and the scene is changed; then *the eagle-eyed and lion-hearted men of the mountains* in North Carolina will snatch their rifles from the rack over the mansion door, and go forth in defence of their homes and hearths, their wives and children, and exterminate the revengeful savage Indian, and leave not one behind to tell the tale of wo. Sir, this is a critical juncture among the Cherokees; the flash of one rifle may set that whole frontier in a blaze. This momentous crisis and unfortunate situation of the great mass of the Cherokee people, who have been deluded and deserted by some of their chiefs in this their day of affliction and distress, entitles them to the kind feelings and practical philanthropy of every one whose generous heart throbs for peace on earth and good will toward all mankind. Those who oppose this treaty, and induce the Indians to believe they can remain where they are, know not the mischief and murder they may cause to be committed. The opposition to this measure, though dictated by good intentions, is predicated upon irrelevant evidence and mistaken views of fact; upon a total absence and want of a familiar and practical acquaintance with Indian customs and character. Those who feed upon the day-dreams of fancy, and delight to spin cobweb theories into the most attenuated abstractions, may make a *show* of charity, sympathy, and humanity, but they never will administer to the real comfort and true happiness of the human race.

Sir, I truly and anxiously desire that the officers and agents, whom the Government have selected and intrusted to perform this delicate and difficult task of removing the Cherokee Indians, may do their duty in mildness and mercy, and prevent the land recently acquired by treaty from being crimsoned with crime and drenched with blood.

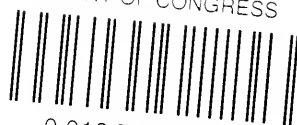
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